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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,314	03/01/2004	Yu-Jen Lin	CFP-2346 (15722/631)	8827
23595	7590	03/11/2005	EXAMINER	
NIKOLAI & MERSEREAU, P.A. 900 SECOND AVENUE SOUTH SUITE 820 MINNEAPOLIS, MN 55402			BARFIELD, ANTHONY DERRELL	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/790,314

Applicant(s)

LIN, YU-JEN

Examiner

Anthony D Barfield

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

Claim 17-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "the vertical bar" lacks proper antecedent basis in claim 17. The phrase "comprising a retaining for retaining" is unclear and confusing in claim 18, consequently the phrase "the retaining device" has no antecedent basis in claims 19-20.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1,6-11,13,16-18 as best understood are rejected under 35 U.S.C. 102(e) as being anticipated by Sander et al. Sander et al. shows the use of a stool apparatus for use in a chair

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with a post, the stool apparatus comprising a stool (22), a carriage (26,28) for carrying the stool and a telescopic device (16) for connecting the carriage to the post. Sander et al further shows the use of a tension spring (32) for shrinking the telescopic device placed within the telescopic device. The telescopic device inherently defines a screw hole, and the carriage defines an aperture through which a screw is driven into the screw hole. The telescopic device comprises a first tube, a second tube inserted in the first tube and a third tube inserted in the second tube, as shown in Figure 1. A retaining device (30) allows for the stool to be retained within a position relative to the carriage.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5,12, are rejected under 35 U.S.C. 103(a) as being unpatentable over Sander et al. in view of Maier-Hunke et al. Sander et al. shows the use of a lug on the carriage (Fig. 1). Sander et al. shows all of the teachings of the claimed invention except the use of a carriage having a vertical bar attached to the telescopic device, horizontal bar integrated with the vertical bar and two wheels attached to the horizontal bar and the use of a lug disposed between two lugs. Maier-Hunke et al. shows the conventional use of a carriage having a vertical bar (9) integrated with a horizontal bar (10). Maier-Hunke further shows the conventional use of a lug disposed between two lugs (see Fig. 3) which inherently has some screw driven in the lug. It would have

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been obvious to one of ordinary skill in the art at the time of the invention to modify the carriage of Sander et al. with the teachings of Maier-Hunke et al. in order to provide more stability.

Claims 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sander et al. in view of Bors et al. Sander et al. shows the use of an attachment device for attaching the telescoping device to the chair. Sander et al. fails to show the use of a clamping device. Bors et al. shows the conventional use of a clamping device (Figs. 7-8) having a first jaw (72) with a second jaw (74) hinged thereto. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the carriage of Sander et al. with the teachings of Bors et al. in order to allow the telescoping device to be locked in a radial position with respect to the chair post.

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sander et al. in view of Dungan. Sander et al. shows the stool pivotally attached to the carriage. Sander et al. fails to show the use of a retaining device. Dungan shows the conventional use of a retaining device (84,70). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the carriage of Sander et al. with the teachings of Dungan in order to allow the stool to be locked in a more discrete angular position.

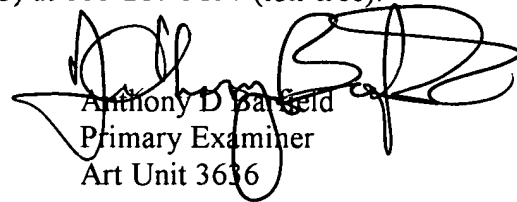
### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 6,824 219 shows another stool and carriage.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Barfield whose telephone number is 703-308-2158. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Anthony D Barfield  
Primary Examiner  
Art Unit 3636

adb  
March 5, 2005